

Enter this AF

/VN/

**RECEIVED
CENTRAL FAX CENTER
APR 27 2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

Applicant: Jude S. Sauer

Serial No.: 10/772,185

Confirmation No: 4686

Filed: 02/04/2004

For: INSTRUMENT FOR GUIDING THE SURGICAL CUTTING OF
TISSUE AND METHOD OF USE

Examiner: Victor X. Nguyen Art Unit: 3734

Atty. Docket: LS-006CV

RESPONSE TO THE OFFICE ACTION DATED JANUARY 27, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

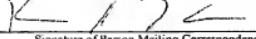
Claims 1-10, 15-18 and 20-31 were rejected as being anticipated by U.S. Patent No. 5,817,013 (Ginn et al.) "Ginn". This rejection is not well taken. First, Claims 4, 5, 8, 9, 20, 22, 24, and 29 describe a blade shuttle, but the Examiner states on page 5 of the 1/27/10 Office Action that Ginn has no blade shuttle. Thus, such claims cannot be anticipated by Ginn.

Second, Claim 1 describes many elements that are clearly lacking in Ginn. Claim 1 describes an instrument for cutting tissue guided along a guide wire having a shaft extending to a distal end with an opening to outside of the instrument, a guide tube with an outer tubular surface where the guide tube extends from such shaft through that shaft opening, a path through at least an opening extending through guide tube for extending a guide wire, and means for longitudinally cutting tissue guided along the outer tubular surface of the guide tube through the shaft's opening. Such means has a blade extendable and retractable through the shaft's opening to cut tissue when present outside of the instrument.

Certificate of Mailing by Facsimile Transmission

I certify that this document is being facsimile transmitted to the U.S. Patent and Trademark Office on April 27, 2010 to phone number (571) 273-8300.

Kenneth J. LuKacher


Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence